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COMMISSION ON HUMAN RIGHTS

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SUMMARY RECORD OF THE 10th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 20 March 1998, at 3 p.m.

Chairman:	Mr. CHOWDHURY (Vice-Chairman)	(Bangladesh)
later:	Mr. SELEBI (Chairman)	(South Africa)

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In the absence of Mr. Selebi (South Africa), Mr. Chowdhury (Bangladesh), Vice-Chairman, took the Chair.

The meeting was called to order at 3.40 p.m.

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF THE REPUBLIC OF CUBA

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3) (continued) (E/CN.4/1998/104 and Corr.1, 109, 117, 122 and 123)

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RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE (agenda item 12) (E/CN.4/1997/77/Add.1 and 2, 78, 79, 124, 125, 128, 131 and A/52/471)

1. Mr. ROBAINA (Cuba) said that the anniversary of the Universal Declaration of Human Rights should be the occasion not for misplaced festivities but for calling to mind what the state of the world had been at the time when that instrument had been adopted. Underdevelopment and exclusion had then been the lot of millions of human beings and two thirds of humanity had been under the colonial yoke. At the San Francisco conference several Latin American countries, including Cuba, had proposed the adoption of an international charter of rights including a declaration on the duties and rights of nations, in other words an instrument that would take account of the social context and assert the need for solidarity between human beings. Unfortunately the ideas of the countries of the North had prevailed and it was an abstract declaration of the rights of the individual which had been adopted, enabling those same countries to justify the retention of their colonial empires while proclaiming themselves to be the fervent defenders of the Universal Declaration. It had therefore not been until the year 1960 that, through the adoption of resolution 1514 by the United Nations General Assembly, the right to independence of countries and peoples under the colonial yoke had been recognized.

2. Fifty years after the adoption of the Declaration, it was to a critical evaluation of that document that Cuba was inviting the international community. The International Bill of Human Rights for the next millennium must comprise a higher dimension so as not to leave out in the cold the human beings who made up the 185 Member States of the United Nations. In that regard the recommendations of the General Assembly in favour of including the declaration on the right to development in the International Bill of Human Rights was a step in the right direction. The Vienna Conference had paved the way by recognizing the right to development as a universal and inalienable right. For the countries of the South, that was a particularly significant advance. Likewise, the recognition of the universality, indivisibility and interdependence of all human rights and the reaffirmation of the principles of

objectivity and non-selectivity had been the major accomplishments of the Vienna Conference. That being said, the recommendations of the Conference, apart from the creation of the Office of the High Commissioner for Human Rights, were far from having been fully implemented. The Convention on the Rights of the Child had not yet been universally ratified, and neither had the Convention on the Elimination of All Forms of Discrimination Against Women.

3. No genuine international cooperation would be possible in the human rights field as long as the countries of the North continued their political manipulations and did their utmost to impose upon the countries of the South, by economic blackmail and military force, their narrow, dogmatic and standardizing concept of democracy; so long as those same countries and a few "chosen" nations among the countries of the South continued to enjoy impunity in the human rights field; and as long as "double standards" continued to be the ruling principle in that sphere, undermining the credibility of the United Nations mechanisms established for the defence of those rights. It was interesting to note, in that connection, that some developed countries, while anxious to rationalize the functioning of United Nations mechanisms in other priority areas, were opposed to any reform when it came to human rights.

4. It was high time to put a stop to the destructive lunacies of the countries of the North, which invented wars in the name of international security and committed aggressions under cover of ostensible "humanitarian" operations, thus adding to the tribulations of a world already racked by epidemic diseases like AIDS, by natural catastrophes like El Niño, and by all the other evils that plagued the countries of the planet, especially those of the South: drug abuse, urban violence, unemployment and poverty.

5. Crime and punishment seemed to be the pattern characterizing the current era. Except that those really responsible for the disasters that afflicted the world were the very ones who assumed the right to judge and condemn their victims, namely the poor populations of the South. Yet those populations had a right to development, to self-determination and to respect for their identity; they also had the right, as stated in the Vienna Declaration and Programme of Action, not to be subjected to unilateral measures, contrary to international law and the United Nations Charter, that created obstacles to trade relations between States and impeded the full realization of the rights set forth in the Universal Declaration. The Cuban delegation therefore had the right and the duty to denounce once again the illegal blockade decreed by the Government of the United States against Cuba - a blockade which was constantly being intensified and had even assumed an extraterritorial character. In effect a veritable war of attrition, it had lasted for four decades, had cost Cuba about 60 billion dollars, and constituted the most serious, most massive and most systematic violation of the fundamental rights of the Cuban people. One must not be duped by the alleged "relaxation" of that blockade. In any case, it was not relaxation that the Cuban people demanded, but an end to the barbaric conditions being imposed upon them. An ever greater number of voices were being raised, even within the United States, against that absurd blockade. There was an ever greater number of North Americans wanting to trade and travel freely, as was also the wish of the Cubans residing in the United States who longed to maintain normal relations with their families in their country of origin.

6. The thousands of tourists flocking to Cuba were discovering a country very different from the one that the media transnationals had depicted to them for so many years. They discovered a free, proud and independent country, where democracy was based on direct participation by the population, without political middlemen, without privileged elites and without ruinous electoral campaigns, a country where 98 per cent of the inhabitants had voted for the Government. They discovered a healthy, well-educated country, where children were the primary concern of the State and where elderly persons had the right to live in dignity and security; a country where the State devoted 70 per cent of the national budget to public health, to education and to social security and welfare; a country that had 1 physician to every 169 inhabitants and 1 teacher to every 42 pupils; a country where infant mortality had been 7.2 per 1,000 live births in 1997, where life expectancy was over 75 years, where nobody was tortured or disappeared and where sport and culture were the heritage of everyone; a country, lastly, where science and technology had not ceased to progress despite the blockade.

7. The 11 million compatriots whom the Cuban delegation represented were rightly proud of what they had accomplished during all their years of struggle up to 1 January 1959 and the 38 years of resistance that had followed. True to their principles, they were determined not to yield to blackmail or pressure, from whatever source; they refused to let anyone foist on them laws drafted in English or, worse, in the mafioso dialect called "Cuban-American". They knew that they owed their achievements to the fact that they had known how to choose what suited them best for the present and the future. That was one right which they were not ready to give up.

Statements made in exercise of the right of reply

8. Ms. SYAHRUDDIN (Indonesia), taking the floor under item 7 of the agenda, said she wished to explain clearly the situation with regard to the question of East Timor, to which the Portuguese delegation had referred the previous day in exercise of its right of reply. She pointed out that, in the resolutions which it had adopted on that question from 1977 to 1982, the General Assembly had not rejected the claim that East Timor had been integrated into Indonesia, nor demanded that the latter should withdraw its troops from East Timor. More importantly, in 1982 the General Assembly had adopted by a very slim majority (50 votes to 48) a very moderately worded resolution, which showed that the international community was more and more convinced of the legitimacy of the decision taken by the population of East Timor in choosing to integrate with Indonesia.

9. As would be remembered, after the adoption of that resolution the Indonesian Government had accepted the proposal to engage in a dialogue with Portugal under the auspices of the United Nations Secretary-General with a view to achieving a comprehensive, just and internationally acceptable solution. Lastly, her delegation noted that, in exercising his right of reply, the ambassador from Portugal had not called in question the decision dated 30 June 1995 of the International Court of Justice to the effect that Portugal could no longer claim to be the administering Power for the territory of East Timor.

10. Mrs. DIOGO (Portugal) noted that in its reply the Indonesian delegation had not questioned the position of the General Assembly and Security Council according to which the inhabitants of East Timor had not exercised their right to self-determination, nor the judgement dated 30 June 1995 of the International Court of Justice in the case concerning East Timor. She took that as a sign that the Indonesian Government was at last ready to accept the competence of the Court.

11. U AYE (Observer for Myanmar) replied to the request from the Minister for Foreign Affairs of Finland for information concerning a certain Mr. Leo Nichols who, six years previously, had acted as Honorary Consul in Myanmar for Finland and a few other countries.

12. The individual in question, whose name was Mr. James Leander Nichols, was in fact a citizen of Myanmar. In 1992, after being tried and sentenced to a two-and-a-half-months prison term by a Myanmar court for contravention of the Foreign Currency Exchange Act, he had been dismissed from his position as Honorary Consul, which was why his name was absent from the official list of consular agents published by the Ministry for Foreign Affairs of Myanmar. Upon his release from prison, Mr. Nichols had again been tried and sentenced for a further infringement, specifically of the Wireless Telegraph Act. Suffering from serious health problems, he had been given medical care during his imprisonment. After undergoing a stroke, he had been transferred to the Yangon General Hospital, where he had passed away on 22 June 1996. The autopsy report had been made public. His remains lay in the Christian cemetery where he had been buried in the presence of his family and friends.

13. His delegation considered the case closed and had no intention of responding to any politically motivated statements.

14. The CHAIRMAN declared the debate on agenda items 4 and 7 closed.

15. Mr. TORRES (France-Libertés), taking the floor under item 3 of the agenda, welcomed the setting up in Bogotá of the Permanent Office of the United Nations High Commissioner for Human Rights, while nonetheless observing that the situation in that country had seriously deteriorated in 1997. There had been, in particular, an increase in the involvement of paramilitary groups in human rights violations. It was to those groups that 76 per cent of the murders committed in Colombia were attributed. It was suspected that the operations conducted jointly by military units and paramilitary groups formed part, whatever the official statements might claim, of a counter-insurgency strategy. Despite the judgement of the Constitutional Court and a Government decree limiting the powers of the special vigilance and private security services, formerly known under the name of convivir, the existence of those services remained legal, though that was contrary to the recommendations made in April 1997 by the Commission on Human Rights. In 1997 the operations of the paramilitary groups, the armed forces and the guerrilla fighters had entailed the forcible displacement of over 200,000 persons, bringing to over a million the number of Colombians whom violence had driven off their lands. The large number of attacks made against human rights defenders was one of the main factors in the deterioration of the situation in Colombia. After Mario Calderón had been murdered, his wife and his father, together with many other human rights defenders, including several members of Amnesty

International, and some members of the political opposition had had to leave the country. The Chairman of the Human Rights Committee of Antioquia, Mr. Jesus Maria Valle, had been murdered on 27 February 1998. Very recently the Swedish International Development Agency had had to close its office in Colombia. The abuses he had enumerated unfortunately represented only a small fraction of those committed in the country. To them must be added murders of trade unionists, the deterioration of the situation in the penal institutions, and the ubiquity of armed violence.

16. France-Libertés would like to endorse the statement issued by some 57 Colombian non-governmental and social organizations which feared that the representative in Colombia of the Office of the High Commissioner for Human Rights, having as her main objective the restoration of peace, was deviating from her mandate. France-Libertés and the organizations it represented were requesting that, on the basis of a meticulous analytical report drawn up by the Human Rights Office in Colombia, the Commission should again express its concern at the gravity of the situation in that country. It was also important for the Commission to confirm the mandate of the Permanent Office of the United Nations High Commissioner for Human Rights, reaffirm its objectives and request it to report to the General Assembly on its activities and on the human rights situation in Colombia. France-Libertés also recommended that the United Nations High Commissioner for Human Rights should visit Colombia and that the thematic rapporteurs should closely monitor the critical situation prevailing in the country.

17. Mr. FERNANDEZ (Franciscans International), taking the floor under agenda item 3, said that human rights violations were becoming ever more frequent in Colombia. That worsening situation was ascribable not so much to the armed confrontation taking place in the country as to the wide economic, political and social inequalities that had always characterized Colombian society.

18. The Colombian Government had taken no action at all on most of the recommendations put forward in recent years by various United Nations bodies. For example, it had not taken any effective measures to control the activities of the paramilitary groups, had not enacted any law designating enforced disappearances as crimes, and had not amended the military penal code by deleting "the duty of obedience" from the list of reasons for exoneration from liability. It had not decreed that the military penal courts should commit for trial to the ordinary courts persons accused of human rights violations and war crimes. It had not abolished the "faceless courts". It had not, in the majority of cases, suspended law enforcement officers suspected of involvement in serious human rights violations. It had not taken any effective measure to prevent forcible displacements or to help displaced persons. Finally, many human rights defenders, whose actions were equated by certain State officials with subversive or criminal activities, were murdered or had to leave the country.

19. Franciscans International hoped that the Office of the High Commissioner for Human Rights in Colombia would contribute to ensuring that the recommendations addressed to Colombia by the United Nations bodies were applied, failing which the credibility of the Office would be in jeopardy. It also urged the High Commissioner for Human Rights to submit to the General Assembly a report on the activities of the field Office in Colombia of

the High Commissioner's Office and on the human rights situation in that country. Finally, Franciscans International requested the appointment of a special rapporteur who would report directly to the Commission on the human rights situation in Colombia.

20. Mr. SIMAS MAGALHAES (Brazil), speaking on item 12 of the agenda, found it disturbing that the international community should still not have found means of effectively combating contemporary forms of racism, racial discrimination, xenophobia and intolerance, despite the existence of legal standards on the subject and the organization of several international campaigns. In his report (E/CN.4/1998/79) Mr. Glélé-Ananhanzo, Special Rapporteur, called attention in particular to the persistence of discrimination against Blacks, to new manifestations of Islamophobia, to the recurrence of anti-semitism, to the restrictions on the rights of migrant workers and to the utilization of new technologies for propagating intolerance.

21. It was regrettable that at the turn of the century the international community should be confronted with the resurgence of false doctrines based on racial superiority. At a time when the fiftieth anniversary of the Universal Declaration of Human Rights was being commemorated, the persistence of racism and racial discrimination highlighted the magnitude of the obstacles to be overcome if the lofty commitments entered into concerning the exercise of human rights were to become reality.

22. The Brazilian Government subscribed to the conclusions and recommendations of the Special Rapporteur, in particular the proposal for the convening, not later than the year 2001, of a world conference to focus on the adoption of concrete measures for the elimination of racism. The United Nations bodies must continue to target their action to the new forms which that phenomenon was taking. In that connection, his delegation welcomed the reports of the Seminar on Immigration, Racism and Racial Discrimination (E/CN.4/1998/77/Add.1) and of the Seminar on the Role of the Internet in the light of the Provisions of the International Convention on the Elimination of All Forms of Racial Discrimination (E/CN.4/1998/77/Add.2).

23. In conclusion, his delegation noted with satisfaction that the Special Rapporteur listed in his report the numerous measures taken by the Brazilian Government to implement in full its commitments to combating racial discrimination and inequality of chances.

24. Mr. LIU Xinsheng (China) observed that at the time when the Universal Declaration of Human Rights had been adopted the world had just been confronted with fascism and was still under the yoke of colonialism, apartheid and racial discrimination. The notions of democracy, equality and human rights for all were, in the words of Martin Luther King, merely a "dream". In 50 years humanity had nevertheless scored major victories in the struggle against racism and racial discrimination.

25. First of all, anti-racism had become one of the fundamental principles of the international community. Combating racism meant not only protecting human rights and fundamental freedoms but also safeguarding international peace and security and, by so doing, banishing the spectre of war, which had

stricken humanity twice during the century. Next, thanks to the concerted efforts of all Member States, the United Nations had drafted and adopted a series of declarations, conventions and resolutions on the fight against racism which had contributed to achieving the acceptance as a universal principle of the equality of all human beings irrespective of their race, colour or ethnic origin. Furthermore, since the 1970s the United Nations had organized two world conferences and launched three successive Decades to Combat Racism and Racial Discrimination, producing a considerable impact in many countries. Finally, the democratic elections held in South Africa in 1994 under United Nations supervision had marked the collapse of the last bastion of apartheid in the world.

26. For all that, one must not be oblivious to the fate of those who had been subjected to the horrors of racism and racial discrimination and the countless fighters who had lost their lives in the struggle for independence. The battle was far from over. In some parts of the world racial discrimination, xenophobia, neo-Nazism and various forms of intolerance kept cropping up. Racial confrontation and violence sometimes spilled over into armed conflicts. It was in that context that the General Assembly had adopted a resolution providing for the organization of a world conference against racism, racial discrimination, xenophobia and related intolerance, to be held not later than the year 2001. The Chinese delegation sincerely wished that conference, which would attract worldwide attention, every success and stood ready to cooperate with the other delegations in preparing for it.

27. Ms. GLOVER (United Kingdom of Great Britain and Northern Ireland), speaking on behalf of the European Union and, in association with it, Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia, said that the European Union was determined to combat racism, xenophobia and intolerance and that the principle of non-discrimination was at the core of its understanding of human rights. The ethnic conflicts which had brought bloodshed to several countries in recent years showed once again, if it needed any showing, that Governments must unite their efforts to combat racism.

28. It was necessary, in particular, to persuade those States which had not yet done so to ratify the International Convention on the Elimination of All Forms of Racial Discrimination. Meanwhile, all States must cooperate with the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. The States parties, on their side, must accord their full support to the Committee on the Elimination of Racial Discrimination, in particular by discharging their obligation to report to it and taking account of its final observations.

29. With regard to the Third Decade to Combat Racism and Racial Discrimination, the European Union stressed the importance of cooperation between the Committee on the Elimination of Racial Discrimination and the other competent mechanisms. It gave its full support to the work of the Special Rapporteur and invited him to include in his report to the Commission's fifty-fifth session information about conditions in those countries which had not yet ratified the Convention and about the obstacles preventing such ratification.

30. The European Union firmly believed that no effort must be spared to ensure that the world conference to combat racism, which was to be held at the beginning of the next decade, was as effective as possible and action-oriented. The Union had entrusted to the Council of Europe the responsibility for organizing a preparatory conference in 1999 or 2000. It invited other regions to organize preparatory conferences of that type.

31. The world conference would have to advocate practical and effective measures to combat all forms of intolerance and racial discrimination. The question of the universal ratification of the International Convention on the Elimination of All Forms of Racial Discrimination should be at the top of the agenda of the conference.

32. The countries of the European Union were fully aware that racism existed in their territories but were determined to eliminate it. It was with that in view that the member States of the European Union had decided in 1997, at Amsterdam, to amend the Treaty on European Union so as to bring the fight against racism and xenophobia within the objectives of the Union in the field of police and judicial cooperation.

33. The European Consultative Commission on Racism and Xenophobia had contributed to the adoption by the European Council of a declaration on the recognition of diversity and the fight against racism and xenophobia, and of a declaration on the fight against racism, xenophobia and anti-semitism in the youth sphere. The Consultative Commission had also played a key role in the creation of the European Monitoring Centre on Racism and Xenophobia, which would make available to the European Community and its constituent States various tools with which to combat racism and xenophobia.

34. The European Union had designated 1997 the European Year against Racism. In December 1997, the European Social Affairs Commissioner had announced the launching in 1998 of a community action plan against racism.

35. The member States of the European Union were also participating in the fight against racism waged by the Council of Europe, in particular by defending the rights of minorities. Thus, the Council had drawn up the Framework Convention for the Protection of National Minorities and the European Charter for Regional Minority Languages.

36. The European Union was actively participating in the fight against racism and xenophobia through meetings concerned with the human dimension of the Organization for Security and Cooperation in Europe. The work of the meeting held in November 1997 in Warsaw had included a detailed study of the situation of the Roma minority in Europe. The European Union had also played a key role in the creation of the post of OSCE representative on freedom for the media, whose mandate included combating intolerance in Europe.

37. Governments must criminalize racism, strive to eliminate all discrimination on grounds of race, culture or ethnic origin, protect the rights of persons belonging to minorities and develop understanding, tolerance and mutual respect. In conclusion, she thanked all those individuals and non-governmental organizations that were fighting against racism and racial

discrimination. For their part, the Governments of the member countries of the European Union would continue their close cooperation with civil society in the fight against those evils.

38. Mr. Selebi (South Africa) took the Chair.

39. Mr. GARVALOV (Committee for the Elimination of Racial Discrimination) said that at its fifty-second session, which had just ended, the Committee for the Elimination of Racial Discrimination had examined the periodic reports and initial reports submitted by 12 States parties to the International Convention on the Elimination of All Forms of Racial Discrimination. In addition, legitimately concerned at the situation in Kosovo, the Committee had adopted specific recommendations on that subject.

40. In its resolution 52/111 of 12 December 1997, the General Assembly had decided that the Commission on Human Rights would act as the preparatory committee for the world conference on racism, racial discrimination, xenophobia and related intolerance and had asked the Committee on the Elimination of Racial Discrimination and other bodies to assist the preparatory committee and participate actively in the conference. The Committee had accordingly established a three-member contact group to discuss with the Commission and with the secretariat of the Office of the United Nations High Commissioner for Human Rights the contribution which the Committee would be able to make to that undertaking. The Committee was positive that it had the expertise to make practical suggestions concerning the preparations for the world conference. Furthermore, the fact that it studied the phenomenon of racial discrimination not only in its traditional manifestations but also in its new and subtle forms put it in a position to provide valuable assistance. Moreover, the Committee had put into effect early-warning and urgent action procedures which could help the international community to identify potential crisis situations and find solutions. Finally, it could conduct research on certain factors conducive to racial discrimination. Thus, in collaboration with the Sub-Commission on the Prevention of Discrimination and Protection of Minorities, the Committee was currently preparing a study on the application of article 7 of the Convention which would without doubt be of considerable use to the conference. In conclusion, he once again assured the Commission of the desire of the Committee on the Elimination of Racial Discrimination to cooperate unreservedly in the preparation of the world conference.

41. Mr. DECAZES (Sovereign and Military Order of Malta), referring to the humanitarian action that the Order had been conducting for nearly nine centuries, said that it felt particularly concerned at serious violations of human rights, particularly discrimination and intolerance on the grounds of religion or belief. Although it was not a formal signatory to the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, the Order unreservedly accepted the obligations stemming therefrom. It energetically denounced human rights violations, particularly when they affected the lives and dignity of women, children, handicapped persons and elderly or sick persons. In that connection, the Order considered that certain scientific and political trends that sought to justify euthanasia were misguided and must be condemned.

42. In its desire to contribute to the fight against everything that seriously threatened the physical integrity of populations exposed to the consequences of armed conflicts, the Order had closely identified itself with recent international initiatives and actions aimed at banning anti-personnel mines. He also hailed the forthcoming creation of an international criminal court to judge crimes against humanity. Having already strengthened its presence in crisis areas by coordinating its activities with those of national and international agencies, the Order noted with gratification the development of cooperation between United Nations agencies also engaged in a common humanitarian activity.

43. Mr. HAFEZ (Egypt) welcomed the adoption of resolution 1997/74 in which the Commission on Human Rights had proposed that a recommendation should be made to the General Assembly to convene before the year 2001 a world conference to combat racism, racial discrimination, xenophobia and related intolerance. He hoped that the conference would lead to the adoption of concrete measures to eliminate discrimination and combat the exclusion from which millions of people were still suffering - at a time, too, when the world was entering the second half of the Third Decade to Combat Racism and Racial Discrimination.

44. His delegation considered that the States parties to the Convention on the Elimination of Racial Discrimination should enact legislation to punish acts of racial discrimination. It deplored the fact that Israel, a State party to that Convention, was continuing to adopt policies and laws based on discrimination against the Palestinians. Pointing out that the Committee against Torture had condemned the decisions taken by Israel's High Court of Justice, which tolerated resort to torture in dealing with Palestinians and confiscation of their lands, his delegation demanded immediate cessation of those illegal practices.

45. He stressed the importance of the recommendations made at the Seminar on Immigration, Racism and Racial Discrimination and considered that the attention of the international community should be drawn to them. His delegation invited ILO and UNESCO to continue their important studies on the situation of migrant workers, who were victims of discrimination and racism. It also wished to stress the crucial role that education played as a means of combating those phenomena. Lastly, his delegation requested the Special Rapporteur to apply the Commission's decision 1997/125, adopted without a vote, whereby it had agreed to delete the last sentence, determined to constitute blasphemy against the Koran, in paragraph 27, section 3 of the report published as document E/CN.4/1997/71.

The meeting rose at 5.30 p.m.